

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

TONY LAMAR PINKARD, SR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 3:07-CV-70-MEF
)	
CRAIG DAVIDSON,)	
)	
Defendant.)	

ANSWER

COMES NOW Defendant Captain Craig Davidson (hereafter, "Captain Davidson" or Defendant"), and responds to the Complaint filed by Plaintiff in the above-styled cause and states as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his Constitutional rights were violated by Defendant.¹ More specifically, as a pre-trial detainee, the Plaintiff alleges that his rights have been violated in that he was subjected to police brutality and cruel and inhumane punishment while he was incarcerated in the Randolph County Jail.

2. Defendant admits that the Plaintiff was incarcerated on or before January 8, 2007 at the Randolph County Jail.

3. Defendant denies the remaining allegations and inferences in the Plaintiff's Complaint.

¹ The following statement of the issues and claims made by Plaintiff are based upon Plaintiff's Complaint and the undersigned's interpretation of the issues raised. If other issues are presented, Defendant generally denies any such allegations as being untrue and completely without basis in law or fact.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted. Defendant did not deprive Plaintiff of any Constitutional right to which he is entitled.
2. Plaintiff's Eighth Amendment claims do not apply to pre-trial detainees.
3. Any claims against Defendant in his official capacity are barred by the Eleventh Amendment and because Defendant is not a "person" under 42 U.S.C. § 1983.
4. Defendant is entitled to sovereign immunity in his official capacity.
5. Defendant is entitled to qualified immunity in his individual capacity.
6. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available State remedies.
7. Defendant reserves the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court to enter judgment in his favor and grant unto him costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted on this the 5th day of March, 2007.

s/Scott W. Gosnell
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CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of March, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following by U.S. Mail:

Tony Lamar Pinkard, Sr.
Lee County Detention Facility
P.O. Box 2407
Opelika, Alabama 36801

s/Scott W. Gosnell
OF COUNSEL